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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 JAMALL BAKER,

9 Plaintiff,

10 v.

11 JERALD GRANT, et al.,

12 Defendants.

Case No. C17-1678-RSL-MAT

ORDER ON PLAINTIFF'S MOTION
TO EXTEND TIME AND CONDUCT
ADDITIONAL DISCOVERY

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14 This is a 42 U.S.C. § 1983 prisoner civil rights action. Defendants' motion for summary
15 judgement is noted for March 13, 2020. (Dkt. 127.) On March 9, 2020, plaintiff filed a motion
16 requesting an extension of time until April 1, 2020, to oppose the motion. (Dkt. 133.) Plaintiff
17 also asks for leave to conduct additional discovery, specifically to request the production of
18 documents and to serve approximately five interrogatories. (*Id.*) He does not explain what
19 specific discovery he seeks or why he needs it. (*Id.*) Defendants do not oppose an extension of
20 time, but they do object to plaintiff's request to conduct additional discovery. (Dkt. 134.) The
21 discovery deadline has already passed.

22 The Court finds good cause based on plaintiff's health challenges to grant him an
23 extension of time to file his response to the motion for summary judgment. Plaintiff has not,

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1 however, justified his request for additional discovery. Federal Rule of Civil Procedure 56(d)
2 provides: “If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot
3 present facts essential to justify its opposition, the court may: . . . (2) allow time to obtain
4 affidavits or declarations or to take discovery” Fed. R. Civ. P. 56(d)(2). As the Ninth
5 Circuit has explained:

6 Rule 56(d) provides “a device for litigants to avoid summary judgment when they
7 have not had sufficient time to develop affirmative evidence.” *United States v.*
8 *Kitsap Physicians Serv.*, 314 F.3d 995, 1000 (9th Cir. 2002). A party seeking
9 additional discovery under Rule 56(d) must “explain what further discovery
would reveal that is ‘essential to justify [its] opposition’ to the motion[] for
summary judgment.” *Program Eng’g, Inc. v. Triangle Publ’ns, Inc.*, 634 F.2d
1188, 1194 (9th Cir. 1980) (first alteration in original).

10 This showing cannot, of course, predict with accuracy precisely what further
11 discovery will reveal; the whole point of discovery is to learn what a party does
12 not know or, without further information, cannot prove. *See, e.g., Pac. Fisheries*
13 *Inc. v. United States*, 484 F.3d 1103, 1111 (9th Cir. 2007) (“[T]he purpose of
14 discovery is to aid a party in the preparation of its case”); Fed. R. Civ. P.
15 26(b) advisory committee’s note to 1946 amendment (“The purpose of discovery
16 is to allow a broad search for facts . . . or any other matters which may aid a party
17 in the preparation or presentation of his case.”). But for purposes of a Rule 56(d)
18 request, the evidence sought must be more than “the object of pure speculation.”
19 *California v. Campbell*, 138 F.3d 772, 779-80 (9th Cir. 1998) (citation omitted).
A party seeking to delay summary judgment for further discovery must state
“what other specific evidence it hopes to discover [and] the relevance of that
evidence to its claims.” *Program Eng’g*, 634 F.2d at 1194 (emphasis added). In
particular, “[t]he requesting party must show [that]: (1) it has set forth in affidavit
form the specific facts it hopes to elicit from further discovery; (2) the facts
sought exist; and (3) the sought-after facts are essential to oppose summary
judgment.” *Family Home & Fin. Ctr., Inc. v. Fed. Home Loan Mortg. Corp.*, 525
F.3d 822, 827 (9th Cir. 2008) (emphasis added).

20 *Stevens v. Corelogic, Inc.*, 899 F.3d 666, 678 (9th Cir. 2018). Plaintiff’s request fails to meet
21 these standards. He has not submitted an affidavit explaining the specific facts he hopes to elicit
22 through further discovery, why he believes these facts exist, or why these facts are essential to
23 oppose defendants’ motion for summary judgment.

1 Based on the foregoing, the Court ORDERS:

2 (1) Plaintiff's motion to extend time (Dkt. 133) is GRANTED in part and DENIED in
3 part.

4 (2) The motion is GRANTED as to plaintiff's request for an extension of time to file
5 an opposition to defendants' motion for summary judgment. Plaintiff shall file any opposition
6 brief and supporting evidence on or before **Monday, April 6, 2020**. Defendants may file a reply
7 on or before **Friday, April 10, 2020**.

8 (3) Plaintiff's motion is DENIED as to his request to conduct additional discovery.

9 (4) The Clerk is directed to RE-NOTE defendants' motion for summary judgment
10 (Dkt. 127) for April 10, 2020, and to send copies of this order to the parties and to the Honorable
11 Robert S. Lasnik.

12 Dated this 17th day of March, 2020.

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15 Mary Alice Theiler
16 United States Magistrate Judge
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